settlement under Order 22 rule 14 and the sole plaintiff in the action is an infant or if there are more than one plaintiff and at least one of such plaintiffs is an infant, the costs of the plaintiff or all the plaintiffs (including the infant plaintiff) both as between party and party and as between solicitor and client are required to be taxed, and unless such costs are certified they do not become payable to the solicitor for the plaintiff. Further the amount cannot exceed the costs so certified.

In the case of *Barker and Another v. S. Green & Sons. Ltd.*[1] Lord Chief Justice Goddard emphasised the importance of the strict adherence to the rule. Also see the observations of Lord Hewart in that case. The costs of all actions coming within the ambit of Order 22 rule 14 must be taxed and no question of any agreement between the parties arises.

Prayer No. 3 in the application seeks an order for taxation of costs between party and party. It is a proper prayer. I, however, fail to understand why the plaintiffs' solicitors do not wish to have their bill of costs as between solicitor and client taxed. I do not mean any disrespect. I, in fact, admire the candidness with which Mr. Vohrah told me that solicitors' firms doing work for infant plaintiffs were not doing so out of charity and had to be adequately paid for the services which they rendered. I could not agree more. They have a right to be adequately paid and such right is governed by the provisions of the Advocates and Solicitors Ordinance, 1947 and the Rules of the Supreme Court which read together determine what is the maximum amount a solicitor is entitled to on a solicitor and client basis when one of the plaintiffs is an infant.

There is no indication how much work the plaintiffs' solicitors have done. The only relevent paragraph in the supporting affidavit (enclosure 53) is paragraph 10 which reads:—

"Messrs. Murphy & Dunbar have advised me that the said sum of $10,000 is a reasonable sum bearing in mind the fact that my son be held to contribute to the accident to a certain degree and I wish to accept the same subject to the approval of this Honourable court."

I was told by Mr. Vohrah that there was in fact an agreement between the plaintiffs and the plaintiffs' solicitors. I do not dispute such an agreement although this agreement has to be in writing under section 60 of the Advocates and Solicitors Ordinance, 1947. Whether such an agreement, even if it be in writing, comes within section 67 of the Advocates and Solicitors Ordinance or not is in this case irrelevant as the provisions of Order 22 rule 14(11) are mandatory.

The second plaintiff is the father of the infant plaintiff as well as his next friend. Costs awarded to a next friend are really the costs of the infant. The solicitor may probably in a proper case obtain a charging order under the Advocates and Solicitors Ordinance, 1947, section 89, but there again the costs have to be taxed.

As I have held that the provisions of Order 22 rule 14(11) are mandatory, I am not prepared to make the order in terms of prayer No. 2 of the summons.

Prayer refused.

Solicitors: *Murphy & Dunbar; Subimal Guha Thakurta.*

RE UNITED IRON MINING CO. LTD.

[O.C.J. (Chang Min Tat J.) August 18, 1969]

[Ipoh — Companies Petition No. 2 of 1967]

Companies — Oppression of minorities — Petition — Amendment — Companies Act, 1965, ss. 181 & 221.

Practice and Procedure — Application under Companies Act, 1966 — R.S.C. 1957, O. 53B r. 3.

In this case an application was made for amendment of a petition under section 181 of the Companies Act, for remedies on the grounds of oppression of minorities. The application was opposed on the ground that the provision for amendment or withdrawal of a petition in section 221(2)(e) of the Companies Act, applied only to petitions for winding up.

Held: (1) the discretion under section 221(2)(e) of the Act to allow for amendments or for withdrawal with liberty to file a fresh petition cannot be extended to a petition under section 181, and the Companies (Winding-up) Rules, 1946, did not apply;

(2) by virtue of O. 53B r. 3, the Rules of the Supreme Court are applicable and the discretion of the court under the rules are available to the applicant.

COMPANIES PETITION

Lim Ewe Hock for the petitioners.

Dato' Eusoffe Abdoolcader for the respondent.

Cur. Adv. Vult.

Chang Min Tat J.: By summons-in-chambers in the above petition Mr. Lim Ewe Hock for the petitioners sought liberty to amend the petition as marked in red in the draft amended petition which was attached to the summons-in-chambers and for ancillary reliefs, alternatively for an order that the petitioners might be at liberty to withdraw the petition.

When the matter came before me on the 14th April, 1969, Dato' Eusoffe Abdoolcader for the respondent, the United Iron Mining Company, opposed the prayers in the summons-in-chambers on several grounds. In the first

place, he said that this was not a petition for a winding-up of a company but a petition under section 181 of the Companies Act of 1965 for remedies upon the grounds of oppression of minorities. He further submitted that the powers of the court to allow a petition to be amended or withdrawn were provided for in section 221(2)(e) which referred in particular to petitions for winding-up under Part X of the Act. Dato' Abdoolcader therefore submitted that in any petition which did not fall under Part X and which was in fact under Part VII which provided for arrangements and reconstructions, the court had no powers to grant leave to amend. Mr. Lim Ewe Hock, however, suggested that the court had general powers to allow amendments under Order 28 rule 1 of the Rules of the Supreme Court, 1957. At the conclusion of the submissions, I dismissed the application with costs.

Mr. Lim Ewe Hock then applied for the case to be adjourned into open court for further arguments. The case was accordingly re-opened on the 12th May, 1969. At this further hearing Mr. Lim Ewe Hock abandoned his application for leave to amend and sought merely to withdraw the petition with liberty to file a fresh petition under the alternative prayer. His reason was that that would be tidier and cheaper and as on his own admission the numerous amendments sought to be made would appear to introduce a new case. He again relied upon the provisions of Order 28 rule 1. He further submitted that there was a general discretion in the court to allow amendments even at a late stage, and that the powers of the court on the hearing of a petition provided under section 221 applied to a petition under section 181 so that the court had the jurisdiction or the discretion to allow the petition to be amended or withdrawn. On the other hand, Dato' Abdoolcader submitted in short that the powers of the court under section 221 could not extend to a petition under section 181 and that a petition under section 181 in the absence of any provisions in the Act stood to be determined on this particular issue upon the Act itself.

Now, section 221(1) refers to the hearing of a winding-up petition. This fact, coupled with the other fact that section 221 comes under Part X in the winding-up of companies, in my view, established that the powers are exercisable only in a petition properly so-called for the winding-up of a company. Where a petition is made under section 181 for remedies for the relief of oppression of minorities and a prayer for a winding-up is only made in the alternative, I do not think, with respect, that such a petition can properly be called a winding-up. I therefore take the view that in a petition under section 181, the discretion under section 221(2)(e) to allow for amendments or for withdrawal with liberty to file a fresh petition cannot be extended to it, and that the Companies (Winding-up) Rules, 1946 did not apply.

But this does not, in my view, mean that there is a *lacuna* in the law, as suggested. O. 53B of the Rules of the Supreme Court lays down the procedure on applications under the Companies Ordinance which though expressed to be in relation to the 1940 Ordinance must be considered to be extended to the Companies Act of 1965. If I am right in this, then under rule 3 which reads:—

> "3. The Rules of the Supreme Court for the time being in force and the general practice of that court shall apply as regards all proceedings in relation to applications to which this Order relates so far as may be practicable except if and so far as this Order otherwise provides."

the discretion of the High Court under the Rules of the Supreme Court is available to the applicant.

Accordingly I revoke the order made by me in chambers and give leave to the applicant to withdraw his petition with leave to file, if so desired, a fresh petition. The applicant will have to pay all the costs thrown away.

Order accordingly.

Solicitors: *Lim Ewe Hock; Presgrave & Matthews.*

RE HAJI SUHAIMI BIN DATO' HAJI KAMARUDDIN

[O.C.J. (Ong Hock Thye C.J. (Malaya) August 25, 1969]

[Kuala Lumpur — Petition for Admission No. 14 of 1969]

Advocates and Solicitors — Admission — Special grounds — Experience required — Judicial and Legal service — Advocates and Solicitors Ordinance, 1947, s. 5(5).

The petitioner applied under section 5(5) of the Advocates and Solicitors Ordinance for shortening of the statutory period required for posting of the notice by 9 days and for shortening the statutory period of reading in chambers by 32 days. The special grounds relied on was that the petitioner had acquired experience in the Judicial and Legal Service. He had passed the oral examination and been certified as a suitable person for admission.

Held: appointment in the Judicial and Legal Service may be considered as a special ground that the applicant was one proven to have afforded the requisite experience and knowledge of law and practice, and in the circumstances of this case the prayers for shortening would be allowed.

Cases referred to:—

(1) *In Re G.G. Ponnambalam* [1969] 2 M.L.J. 263.

(2) *Re Chan Sek Keong* [1962] M.L.J. 88, 90.